

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1299

Tax Refund Program for Business Sustainability Training

SPONSOR(S): Williams

TIED BILLS:

IDEN./SIM. BILLS: SB 2562

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Energy & Utilities Policy Committee		Whittier	Collins
2)	General Government Policy Council			
3)	Finance & Tax Council			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

The bill creates undesignated statutes that provide that a construction business that pays the tuition for an employee to take a course provided by the U.S. Green Building Council on the design, construction, or operation of high-performance green buildings may apply to the Department of Revenue (DOR) for a sales tax refund. A qualifying construction business must have fewer than 25 employees and the tax refund is to equal 50 percent of the cost of the tuition, not to exceed \$1,000 per employee annually. Any small business, other than a franchise, may apply for the refund for employee training by submitting an application to the DOR.

The DOR is directed to provide forms and establish a procedure for applying for, processing, and issuing tax refunds. An application for sales tax refund must be submitted within 60 days after completion of a qualifying course. The DOR is to approve applications that comply with this section within 30 days of receipt. The DOR is not to approve more than \$2 million in refunds per fiscal year.

Small businesses applying for the tax refund may elect to apply the tax refund against any liability for the sales and use tax imposed under chapter 212, F.S., or the corporate income tax imposed under chapter 220, F.S.

The Department of Revenue is directed to approve no more than \$2 million in sales tax refunds per fiscal year though August 31, 2011, when the section expires.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

U.S. Green Building Council

Founded in 1993, the U.S. Green Building Council (USGBC) is a non-profit organization that addresses expanding sustainable building practices. The USGBC is composed of more than 15,000 organizations and members include building owners and end-users, real estate developers, facility managers, architects, designers, engineers, general contractors, subcontractors, product and building system manufacturers, government agencies, and nonprofits.¹ The USGBC has over 78 local chapters and groups throughout the U.S. The USGBC chapters provide local green building resources, education and leadership opportunities. Local chapter members can connect with green building experts in their area, develop local green building strategies and tour green building projects.²

The USGBC provides educational programs on green design, construction, and operations for different sectors of the building industry. According to the USGBC, more than 81,000 designers, builders, suppliers, and managers have attended USGBC educational programs which provide practical knowledge and present new business opportunities through sustainable building practices.³

There is currently no tax refund program for construction businesses to attend U.S. Green Building Council sustainability training.

Effect of Proposed Changes

The bill creates undesignated statutes that provide that a construction business that pays the tuition for an employee to take a course provided by the U.S. Green Building Council on the design, construction, or operation of high-performance green buildings may apply to the Department of Revenue (DOR) for a sales tax refund. A qualifying construction business must have fewer than 25 employees and the tax refund is to equal 50 percent of the cost of the tuition, not to exceed \$1,000 per employee annually. Any small business,⁴ other than a franchise, may apply for the refund for employee training by submitting an application to the DOR.

¹ U.S. Green Building Council website: <https://www.usgbc.org/DisplayPage.aspx?CMSPageID=124>.

² About USGBC: USGBC Programs. Accessed through U.S. Green Building Council website: <https://www.usgbc.org/DisplayPage.aspx?CMSPageID=124>.

³ Ibid.

⁴ As defined in s. 288.703, F.S.

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Small businesses applying for the tax refund may elect to apply the tax refund against any liability for the sales and use tax imposed under chapter 212, F.S., or the corporate income tax imposed under chapter 220, F.S.

The section expires on August 31, 2011.

B. SECTION DIRECTORY:

Section 1. Creates an undesignated statute relating to a tax refund program for construction business sustainability training.

Section 2. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A construction business that pays the tuition for an employee to take a course provided by the U.S. Green Building Council on the design, construction, or operation of high-performance green buildings may apply to the Department of Revenue for a sales tax refund.

D. FISCAL COMMENTS:

The Department of Revenue is directed to approve no more than \$2 million in sales tax refunds per fiscal year through August 31, 2011.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is authorized to adopt rules to administer the section.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Comments from the Department of Revenue

The term “construction business” I paragraph (1)(a) is not defined. That term broadly includes architects, engineers, draftsmen, tile setters, painters, plasterers, and interior designers as well as builders, plumbers, and electricians. Since the refund is allowed under the first sentence of paragraph (1)(b) for “any small business as defined in s. 288.703, F.S.,” it appears that the refund may not be limited to just construction businesses. It is unclear whether both (1)(a) and (1)(b) are limitations on the same refund or whether they are limitations for separate refunds.

This program is presented as a sales tax refund program. Not all construction businesses that are small businesses are registered to collect and remit sales tax to the department...It is unclear how a taxpayer who has not paid sales tax directly to the department can receive a refund of sales tax, how the department is authorized to issue those refunds, or the specific fund from which the department is to pay the refunds. The department does not generally review applications to determine whether a business meets the established criteria set by a tax credit program. Other agencies are generally responsible for reviewing and approving the applications and for advising the department of the authorized amount of the tax credit for each business.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES